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ARIZONA ATTORNEY GENERAL

December 31, 1952
Opin. 52-329

Mr. Wilford R. Richardson
County Attorney
Graham County
Safford, Arizona

Dear Mr. Richardson:

This is in reply to your letter of December 29, 1952, wherein you request our opinion as to whether the civil law method or the common and canon law method of computing the degrees of consanguinity is applicable in the State of Arizona.

We have been unable to find any statute declaring the method to be used in this State nor have we found any cases interpreting the various statutes concerning degrees of consanguinity.

In the case of Simonton vs Edmunds, 25 S.E. 2d 285, the South Carolina Supreme Court quoted from Kent's Commentaries, Vol. II, page 422, as follows:

"The next of kin is determined by the rule of the civil law; and under that rule the father stands in the first degree, the grandfather and grandson in the second; and in the collateral line, the computation is from the intestate up to the common ancestor of the intestate and the person whose relationship is sought after, and then down to that person. According to that rule, the intestate and his brother are related in the second degree, the intestate and his uncle in the third degree."
(Emphasis supplied.)

616 Am.Jur., "Descent and Distribution", Section 55, page 826, states:

"The civil law system has been adopted in most states by statute or by the courts, the common law system rejected as being based on conditions wholly at variance

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with our institutions, although some American cases have been decided according to the rule of the common law." (Emphasis supplied)

In 26 C.J.S., "Descent and Distribution", Section 22, page 1029, the following statement is found:

"* * * Except in a few states, where it is expressly provided by statute that degrees of kindred shall be computed by the rules of the canon or common law, the rule adopted in the various states, either by express statutory enactment or judicial construction, is that of the civil law." (Emphasis supplied)

It is our opinion, therefore, based on the foregoing statements of general law, that the degrees of consanguinity, as stated in Section 56-105, ACA 1939, should be computed by the civil law method.

Trusting that this satisfactorily answers your question, we remain

Sincerely yours,

FRED O. WILSON
Attorney General

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